

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

**ANGEL DAVID MORALES
VALLELLANES,
Plaintiff,**

v.

**JOHN POTTER, UNITED STATES
POSTMASTER GENERAL, ET ALS.,
Defendants.**

CIVIL NO. 97-2459 (GAG)

**DAMAGES BASED ON
RETALIATION AND
DISCRIMINATION; PROHIBITED
PERSONNEL PRACTICES;
UNFAIR LABOR PRACTICES;
BREACH OF COLLECTIVE
BARGAINING AGREEMENT**

**TRIAL BY JURY IS HEREBY
REQUESTED**

MOTION TO VACATE ORDER

COMES NOW, Plaintiff Angel David Morales-Vallellanes through his legal counsel and very respectfully inform this Honorable Court:

1. On October 3, 2005 Plaintiff filed a motion to compel discovery and for enlargement of time to file opposition. (See docket number 251).
2. Said motion was denied same date based on the fact that "...the same is filed way past the discovery deadline, hence is not timely. The plaintiff..."
3. It should be noted that the Interrogatory and the Production of Documents were notified to Defendant on or about March 2004 and the answer to both discoveries were notified on May 2004.
4. The objections notified to Defendant in accordance to Local Rule 26 (b) are from a discovery (Interrogatory and Production of Documents) notified precisely within the term well before the deadline set by this Honorable Court.
5. As a matter of fact, the above mentioned motion (docket 251) does not refer to the notification date of the Interrogatory and the Production of Documents, hence this Honorable Court had no information that such discovery was notified in 2004.
6. It is inaccurate to state that it was "filed way past the discovery deadline" said

discovery is not a new one recently filed as it was notified on 2004.

7. The information requested in the discovery (Interrogatory and Production of Documents) became extremely important once Plaintiff noticed the content of Defendants motion for summary judgment, as said information is vital for the opposition.
8. The requested information and documents is nothing new for Defendants and is not oppressive or inconvenient due to the fact that said party has dealt with the same discovery before.
9. It is important to take in consideration the fact that this case was filed eight (8) years ago, and it was not until last year in 2004 that Plaintiff was allowed to conduct a discovery, mainly due to the obstruction of Defendant.
10. The denial to Plaintiff's request to compel Defendant to answer the objections of the discovery will leave this party defenseless to oppose the summary judgment.

WHEREFORE, it is respectfully requested from this Honorable Court to vacate the October 3rd, 2005 order denying the motion to compel.

RESPECTFULLY SUBMITTED.

I HEREBY CERTIFY that on October 6th, 2005, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System which will send notification of such filing to the following: **Fidel A. Sevillano-Del Río, Esq.**, Assistant U.S. Attorney, Federico Degetau Federal Build., 150 Carlos Chardón Av., Hato Rey, Puerto Rico 00918.

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